

Message Text

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FOR EB/IFD/EBP - HARVEY WINTER AND PATENT OFFICE - MIKE KIRK

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TAGS: WIPO

SUBJECT: NICE DIPLOMATIC CONFERENCE: LANGUAGE QUESTION

REF: (A) GENEVA 3462, (B) STATE 101615

1. AT MAY 9 WORKING GROUP MEETING ON LANGUAGES OF TREATY AND CLASSIFICATION, USSR ANNOUNCED THAT ITS POSITION WAS UNCHANGED (I.E., RUSSIAN MUST BE ONE OF THE AUTHENTIC LANGUAGES OF THE TREATY). WORKING GROUP THEN DISBANDED AND PLENARY TOOK UP QUESTION. ALMOST ALL DELEGATIONS EXCEPT SOCIALISTS AND LDCS INDICATED THAT THEY COULD ACCEPT AS A COMPROMISE BUDAPEST FORMULA FOR LANGUAGES OF TREATY. SPAIN AND FRG REITERATED THAT THIS ACCEPTABLE TO THEM IF USSR ALSO WENT ALONG. SEVERAL DELEGATIONS CITED AS BASIS FOR THEIR POSITION LATENESS OF RUSSIAN PROPOSAL AND THE PRACTICAL AND TECHNICAL DIFFICULTY OF TRYING TO NEGOTIATE AND SIGN RUSSIAN TEXT WITHOUT ADVANCE PREPARATION.

2. RUSSIANS ACKNOWLEDGED ABOVE PRACTICAL DIFFICULTY AND OFFERED FOLLOWING PROPOSAL: TREATY PROVIDE THAT THERE BE FOUR AUTHENTIC LANGUAGES AND THAT PARTICIPANTS SIGN ENGLISH AND FRENCH AUTHENTIC TEXTS AT CONCLUSION OF

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CONFERENCE. AFTER CONFERENCE RUSSIAN AND SPANISH AUTHENTIC TEXTS BE ESTABLISHED, WITH THE COOPERATION OF THE SECRETARIAT AND COUNTRIES PARTICIPATING IN THE CONFERENCE, AND OPENED FOR SIGNATURE AT A LATER DATE IN 1977. AUSTRIAN AMBASSADOR (NETTEL), WHO WAS FORMER AUSTRIAN FOREIGN MINISTRY LEGAL ADVISER, ASKED WHAT WOULD BE THE LEGAL EFFECT IF A COUNTRY SIGNED THE

ENGLISH AND FRENCH TEXTS, BUT NEVER SIGNED SPANISH AND RUSSIAN. HE NOTED PRIVATELY THAT RUSSIAN IDEA NOT VERY GOOD.

3. BEFORE MOVING TO FURTHER DISCUSSION, CHAIRMAN ASKED IF CONFERENCE COULD AT LEAST AGREE THAT CLASSIFICATION SHOULD BE ALONG THE STRASBOURG FORMULA (I.E., ARTICLE 3 OF STRASBOURG WHICH PROVIDES FOR ENGLISH AND FRENCH AS AUTHENTIC LANGUAGES OF THE CLASSIFICATION AND OFFICIAL TEXTS IN GERMAN, JAPANESE, RUSSIAN, ETC.). ALL COUNTRIES INCLUDING THE USSR, SPAIN AND FRG SAID THEY COULD ACCEPT THIS AND THEREFORE CONFERENCE AGREED TO THIS FORMULATION.

4. REGARDING RUSSIAN PROPOSAL ON LANGUAGES OF TREATY, DG NOTED THAT HAVING INDUSTRIAL PROPERTY TREATIES IN SEVERAL LANGUAGES IS A GOOD THING BUT AS BUDAPEST AND NICE TREATIES SUBSIDIARY TREATIES TO PARIS CONVENTION, IT WOULD BE BETTER IF SUCH A MAJOR STEP WERE INITIATED IN THE REVISION OF THE PARIS TREATY. DG THEN ALLUDED TO BUT DID NOT PROPOSE FOLLOWING FURTHER MODIFICATION OF BUDAPEST FORMULA: PARAGRAPH 1(B) OF BUDAPEST ARTICLE 13 WOULD ALSO PROVIDE THAT DG WOULD CERTIFY THE RUSSIAN AND SPANISH OFFICIAL TEXTS AT THE SAME TIME THAT HE CERTIFIED THE AUTHENTIC TEXTS.

5. SIUTATION IS THUS AS FOLLOWS:

(A) BUDAPEST FORMULA HAS WIDE SUPPORT AT MEETING.
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(B) USSR OFFERED PROPOSAL OUTLINED ABOVE.
PLENARY WILL MEET AGAIN MORNING MAY 10 TO RESOLVE ISSUE.

6. WASHINGTON SHOULD ALSO BE AWARE OF OTHER OPTIONS WHICH HAVE NOT BEEN DISCUSSED OPENLY BUT ARE STILL WITHIN REALM OF POSSIBILITY: (A) KEEP FRENCH AS ONLY AUTHENTIC LANGUAGE OF TREATY. (B) ACCEPT AT CONFERENCE RUSSIAN, FRENCH, SPANISH AND ENGLISH AS AUTHENTIC TEXTS. (C) FOLLOWING IDEA OF LEDAKIS WHICH HAS NOT YET RECEIVED DG'S APPROVAL: NEGOTIATE FRENCH AND ENGLISH AUTHENTIC TEXTS AT CONFERENCE, ESTABLISH RUSSIAN AND SPANISH AUTHENTIC TEXTS AFTER CONFERENCE AND ONLY AT THAT POINT OPEN ALL FOUR TEXTS FOR SIGNATURE.

7. REQUEST GUIDANCE REGARDING OPTIONS OUTLINED IN FOREGOING PARAGRAPHS.

8. EXCEPT FOR LANGUAGE QUESTIONS, PLENARY HAS COMPLETED

ALL OTHER WORK AND DRAFTING COMMITTEE WILL COMMENCE WORK
AFTERNOON MAY 9. BY A VOTE OF 14 TO 5 (COMMUNISTS AND
LDCS) CONFERENCE AGREED MAY 9 TO ACCEPT UK PROPOSAL TO
REINTRODUCE ARTICLE 14 ON TERRITORIES WITH A PROVISIO
IN TREATY THAT IF ARTICLE 24 OF OARUS CONVENTION IS
REVISED THIS REVISION WOULD ALSO APPLY TO THE NICE
AGREEMENT FROM THE DATE OF ENTRY INTO FORCE OF THE
REVISED PARIS ACT.SORENSEN

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